

Cemetery company; maintenance of established cemetery. A nonprofit organization, not associated with a cemetery company, formed by citizens of a community to maintain a cemetery whose lots were purchased by individuals from a landowner qualifies for exemption under section 501(c)(13) of the Code.

Advice has been requested whether the nonprofit organization described below qualifies for exemption from Federal income tax as an organization described in section 501(c)(13) of the Internal Revenue Code of 1954.

The organization was created as a nonprofit organization by citizens of a community to provide for the perpetual care and maintenance of a burial area containing the graves of persons who had lived in the community, including lot owners and members of their families, as well as persons buried there as paupers. The original lot owners purchased their respective lots individually from a landowner with the understanding that the area in which the lots were sold was set aside as cemetery ground. No cemetery company was ever formed, however, and no provision for care and maintenance of the area was ever made. All the lots in the area to be cared for have been sold and the area will not be expanded.

For many years the area was maintained by a church that is contiguous to it, and the activity was supported by contributions solicited from members of the church and the community at large. When the church determined that it was no longer able to carry on this work, the present organization was formed to provide for the perpetual care and maintenance of the area.

Section 501(c)(13) of the Code provides in part for the exemption from Federal income tax of a cemetery company if it is not operated for profit.

Revenue Ruling 58-190, 1958-1 C.B. 15, holds that an organization receiving and administering funds for the perpetual care of a nonprofit cemetery is exempt from Federal income tax as an organization described in section 501(c)(13) of the Code.

The present organization is not associated with a nonprofit cemetery as was the organization described in Rev. Rul. 58-190. However, because the organization provides for the perpetual care of a burial area in a community under the circumstances described above and is not operated for profit, it qualifies for exemption from Federal income tax as an organization described in section 501(c)(13) of the Code. Compare Rev. Rul. 64-217, 1964-2 (Part I) C.B. 153, which holds that a perpetual care fund the income of which is turned over to a profit-making cemetery company for use in the care and maintenance of the cemetery is not exempt under section 501(c)(13).

Even though an organization considers itself within the scope of this Revenue Ruling, it must file an application on Form 1024,

Application for Recognition of Exemption, in order to be recognized by the Service as exempt under section 501(c)(13) of the Code. See section 1.501(a)-1 of the regulations. In accordance with the instructions to Form 1024, the application should be filed with the District Director of Internal Revenue for the key district indicated therein.